

This letter discusses purchases of watercraft. See 86 Ill. Adm. Code 153.101. (This is a GIL.)

September 28, 2005

Dear Xxxxx:

This letter is in response to your letter dated April 25, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I recently spoke with Michael regarding tax questions on watercraft and watercraft trailer transactions and he was very helpful in explaining the different scenarios. I was able to find information regarding the taxes due on watercraft but am unable to find anything in writing regarding trailers being tax exempt when purchased from a private party and the seller has properly registered or titled the trailer in their name.

Please accept this letter as a request to obtain trailer information in writing or confirm this letter is accurate by validating it and return it to our office in the provided envelope.

- Private party to private party sales on boats-6.25% no matter where buyer or seller reside
- Private party to private party sales on trailers-no tax due if seller has trailer properly registered and/or titled in their name with their State
- Out of State Dealer to private party-6.25%-7% depending on county buyer resides on boats and trailers
- Private party to private party & Out of State Dealer to private party- trade-in credit **not allowed**
- IL Dealer to private party- IL Dealer required to collect 6.25%-7% tax on boat & trailer and they pay it to IL Dept. of Revenue monthly
- IL Dealer to private party- trade-in credit **allowed**

Thank you in advance for your assistance.

DEPARTMENT'S RESPONSE:

Information regarding the Watercraft Use Tax in the State of Illinois may be found at 86 Ill. Adm. Code 153.101 et seq. The Watercraft Use Tax is a privilege tax imposed on the privilege of using, in this State, watercraft acquired by gift, transfer, or non-retail purchase after September 1, 2004. The tax is imposed on the use of watercraft in this State regardless of whether the watercraft is actually registered under the Boat Registration and Safety Act. No trade-in credit is allowed in a "non-retail" purchase transaction.

For information regarding the sale of a trailer from a private party to a private party, please refer to 86 Ill. Adm. Code 130.110. This Section of the Department's regulations discusses occasional sales. Based on the limited information provided in your letter-request, we are assuming your inquiry is in regards to an occasional sale from a private party. The Retailers' Occupation Tax Act does not impose a tax upon persons who are not engaged in the business of selling tangible personal property. Persons who make isolated or occasional sales do not incur tax liability. See 86 Ill. Adm. Code 130.110.

An Illinois resident who purchases a watercraft or trailer from an out-of-State dealer would incur Use Tax at the State rate of 6.25%. For information regarding a trade-in credit in a "retail sale" purchase transaction, please refer to 86 Ill. Adm. Code 130.425.

An in-State dealer making a sales transaction to an Illinois resident would incur Retailers' Occupation Tax and local occupation tax liability on the sales transaction and would be required to collect the corresponding Use Tax from the customer. In general, the imposition of the various local occupation taxes in Illinois takes effect when "selling" occurs in a jurisdiction imposing a tax. See, for example, 86 Ill. Adm. Code 270.115(b).

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk